

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LARRY HICKMAN,	)	
Petitioner	)	
	)	
vs.	)	Civil Action No. 09-160
	)	District Judge Bloch/
BRIAN COLEMAN, Superintendent of	)	Magistrate Judge Amy Reynolds Hay
SCI-Fayette; and THE COURT OF	)	
PLEAS OF ALLEGHENY COUNTY	)	
	)	
Respondents	)	

MEMORANDUM ORDER

The above-captioned habeas petition, ostensibly filed pursuant to 28 U.S.C. § 2241, was received by the Clerk of Court on February 9, 2009, and was referred to United States Magistrate Judge Amy Reynolds Hay for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge issued a Report that recommended dismissal of the petition prior to service, finding that the Section 2241 petition was an improper attempt to attack Petitioner's state conviction and finding that Petitioner had not carried his burden to otherwise show entitlement to bring the Section 2241 petition, i.e., he failed to show he came within the In re Dorsainvil, 119 F.3d 245, 247 (3d Cir. 1997) exception. Petitioner filed objections, Dkt. [3], essentially claiming that he did come within the Dorsainvil exception.

We find that Petitioner has failed to carry his burden to show that he comes within the Dorsainvil exception. See, e.g., Walker v. Williamson, 235 Fed.Appx. 888, 889 (3d Cir. 2007) ("Further, the 'safety valve' by which a prisoner may bypass § 2255 when it is 'inadequate or ineffective to test the legality of his detention,' is extremely narrow and applies to the unusual

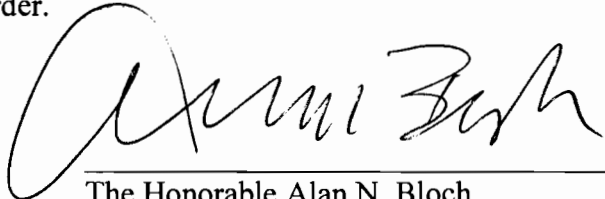
situation in which a prisoner had no prior opportunity to challenge his conviction for a crime later deemed to be non-criminal by an intervening change in law. See Okereke, 307 F.3d at 120 (citing In re Dorsainvil, 119 F.3d 245, 251 (3d Cir. 1997)). Such is not the case here.”). None of the other objections bears any specific mention.

AND NOW, this 30<sup>th</sup> day of April, 2009;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus  
ostensibly filed pursuant to Section 2241 is DENIED.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

IT IS FURTHER ORDERED that the Report and Recommendation (Dkt. [2]) of  
Magistrate Judge Hay, filed April 6, 2009, is adopted as the opinion of the court, as  
supplemented by this memorandum order.

A handwritten signature in black ink, appearing to read "Alan N. Bloch", written over a horizontal line.

The Honorable Alan N. Bloch  
United States District Court Judge

cc: Hon. Amy Reynolds Hay  
United States Magistrate Judge

Larry Hickman  
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